

Appln No. 10/019,563

Amdt date January 18, 2005

Reply to Office action of August 16, 2004

REMARKS/ARGUMENTS

This Amendment is submitted in response to the Office action mailed August 16, 2004. Claims 11, 63 and 64 are amended to more completely cover certain aspects of the invention. Claims 11-13, 15-21 and 23-64 are pending.

On page 2 of the Office action, the Examiner states that if the Applicant desires priority under 35 U.S.C. 119(e) or 120, based upon a previously filed application, specific reference to the earlier filed application must be made in the instant application. Applicant notes that such a reference was made in the Amendment filed on May 26, 2004, wherein the specification was amended to recite that the present application is a continuation of United States Patent Application Serial No. 09/345,475 filed June 30, 1999, now U.S. Patent No. 6,210,432, issued April 3, 2001.

On pages 2-3 of the Office action, the Examiner states that if the application is a utility application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or 16 months from the filing date of the prior application. Applicant notes, however, that the present application is from an international application filed prior to November 29, 2000. Therefore, the time limits of 37 C.F.R. 1.78(a)(2)(ii) are not applicable.

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In view of the above, Applicant respectfully requests that the Examiner carefully review and enter Applicant's claim to priority to United States Patent Application No. 09/345,475 filed June 30, 1999.

On page 4 of the Office action, claims 11-64 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. In particular, the Examiner states that claim 11 claims "...an elongate body...a forming element...and a lock..." and that the specification does not disclose the three separate elements, rather the specification discloses an elongate member 8" connected wires 26 and 27 which may be maneuvered from outside the vein system such that the distances between the adjacent sections 23, 24, 25 are reduced. The Examiner also states that these wires are interpreted as the forming element and the forming elements do not disclose a lock. Claim 11 has been amended to delete the phrase "a lock" and substitute instead the phrase that "the forming element is securable relative to the elongate body." Applicant reserves the right to reassert the original claim in any continuation application that is based on the disclosure in U.S. Serial Number 09/345,475 and reserves the right to assert that the claim is patentable in all respects.

On pages 4-5 of the Office action, the amendments filed on May 28, 2004 and June 7, 2004 are objected to under 35 U.S.C. 132 because they allegedly introduce new matter into the disclosure. In particular, the Examiner states that the added material which is not supported by the original disclosure is as follows: "Also, as shown in Figure 13, the wires 26, 27 are

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secured (or locked) to the stents and the ends of the wires have been severed and removed." The Examiner states that Figure 13 does not illustrate wires, which are locked, nor does it illustrate end wires that have been severed and removed, and therefore states that Applicant is therefore required to cancel the new matter in reply to this Office action.

The paragraph beginning at page 8, line 9 of the specification has been amended to delete the phrase "(or locked)". The amendment is made without prejudice to adding the phrase to the specification and claims in a continuation application. Applicant states that the remaining language cited by the Examiner is fully supported in the original application at Figs. 12 and 13 and the accompanying text at page 8, lines 9-25. In particular, Figs. 12 and 13 show an elongate body comprised of three stent sections 23, 24, 25 "fixed" in position at three locations in the coronary sinus. Wires 26 and 27 are "connected" to the stents. As shown in Fig. 12, wire 26 is connected to stent 24 and wire 27 is connected to stent 23. The wires are maneuverable from outside the vein system to "reduce" the distances of adjacent stents. Fig. 13 illustrates the elongate body in a "bent" position, after the distances between the stents have been reduced. As is again seen in Fig. 13, after the distances between adjacent stent sections are reduced, the wires are further secured to the stents and the ends of the wires severed and removed from the elongate body. In particular, wire 26 is connected to stent 24 and stent 25 and wire 27 is connected to stent 24 and stent 23. The original specification did not expressly state that the wires were

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secured and severed, but this is clearly apparent from Fig. 13, i.e., Fig. 13 shows the elongate body secured in the second position. Applicant respectfully submits that the limitation of claim 11 "wherein the forming element is securable relative to the elongate body for retaining the elongate body in the second configuration at least in part within the coronary sinus" is supported by the original specification and that the material added to the specification and drawings does not add new matter.

On pages 5-6 of the Office action, claims 11-64 are rejected under 35 U.S.C. 102(e) as being anticipated by Langberg et al. 6,402,781. The present application is entitled to priority to Swedish Application No. 9902455-6 filed June 29, 1999 and is also entitled to claim the benefit of the filing date of U.S. Serial No. 09/345,475 filed June 30, 1999. Both of these applications pre-date Langberg, which was filed on January 31, 2000. Accordingly, the rejection of claims 11-64 as being anticipated by Langberg should be withdrawn.

Following is a listing of the pending claims, a brief identification of support in the application for the listed claims and, if the claims were copied from another patent application, the identity of the publication from which the claims were copied:

Claims 11-13 and 15-21 are supported by at least Figs. 12 and 13 and the accompanying specification at page 8, line 9 to page 9, line 2. The claims are copied from U.S. Patent No. 6,402,781 (claims 1-3, 5, 17-20, 22 and 23), which issued June 11, 2002, now commonly owned by Applicant.

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Claims 23-48 are supported by at least Figs. 2-11 and the accompanying specification at page 5, line 19 to page 8, line 8. The claims are copies from U.S. Patent Application Publication US 2002/0087173, published July 4, 2002, Serial No. 09/751,271 (claims 1-7, 9-17, 19, 21, 22, 25-31).

Claims 49-50 are supported by at least the specification at page 8, lines 22-25.

Claims 51-56 are supported by at least Figs. 12 and 13 and the accompanying specification. Claims 52-56 depend from claim 51 and are copied from U.S. Patent Application Publication US 2002/0103533, published August 1, 2002, Serial No. 09/774,869 (claims 3, 4, 7, 8, 9), now commonly owned by Applicant.

Claims 57-62 are supported by at least Figs. 12 and 13 and the accompanying specification. Claims 57-62 are copied from PCT International Publication WO 01/54618, published August 2, 2001, International Application No. PCT/US01/02823 (claims 19, 20, 21, 23, 24 25), now commonly owned by Applicant.

Claims 63-64 are supported by at least FIGs. 12 and 13 and the accompanying specification. Claims 63-64 are believed to be the same or substantially the same as claims 1 and 19 from U.S. Patent Application Publication US 2003/0105520A1, published June 5, 2003. In view of the above, applicant respectfully requests

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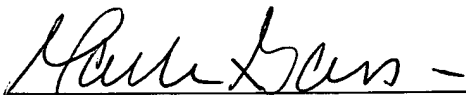
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reconsideration of the application and the allowance of claims
11-13, 15-21 and 23-64.

Respectfully submitted,

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